

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

ALBERTO WILLIAM VILAR and
GARY ALAN TANAKA,

Defendants.

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AFFIRMATION

05 Cr. 621 (KMK)

SUSAN C. WOLFE, an attorney duly admitted to practice law before this Court, affirms
as follows:

1. I am a member of the firm of Hoffman & Pollok, attorneys for the defendant
ALBERTO VILAR. I make this affirmation in support of his motion to quash a subpoena dated
May 26, 2005 addressed to Amerindo Investment Advisors Inc.

2. The facts necessary to this motion, including a summary of the indictment, the
criminal complaints, the search warrant, and the subpoena are incorporated herein and made a
part of this affirmation as if fully stated herein. Those facts and circumstances stated upon
information and belief are based upon my conversations with the counsel for Amerindo, the
government's attorney and other information gleaned in the course of my investigation of this
case.

3. As set forth in the accompanying Memorandum of Law, the subpoena should be
quashed because it was issued for and/or serves an improper purpose; it is overbroad and
oppressive, and; it violates the Fourth Amendment.

4. I have discussed the subpoena with Eugene Licker, Esq., counsel for Amerindo
Investment Advisors, Inc., and he has informed me that the government served the Subpoena r

on the day of the search (May 26, 2005). He further informed me that, at the time of the search, the government agents left certain materials behind. The government agreed not to continue the search and seizure upon the assurance of counsel for Amerindo that the materials in the offices would be preserved and counsel would accept service of a subpoena. Deponent understands that the materials called for have not yet been produced, although many hours have been spent in an attempt to identify responsive materials.

5. A copy of the search warrant is attached hereto as Exhibit A and a copy of the subpoena is attached as Exhibit B.

WHEREFORE, for the reasons presented in the accompanying Memorandum of Law, your deponent prays for an order quashing the subpoena, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
December 13, 2005

SUSAN C. WOLFE